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DECISION



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THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-201973

DATE: March 3, 1981

MATTER OF: LKB Instruments, Inc.

DIG 06253

DIGEST:

*Untimely*

1. Protest to agency alleging ambiguous specifications and remote contract commencement date, filed after closing date for receipt of proposals, was untimely and, therefore, protest of agency denial will not be considered on merits.
2. Protest against rejection of proposal as late is untimely where filed more than 10 days after notification thereof.

(LKB Instruments, Inc. (LKB), protests the award of a contract by the General Services Administration (GSA) under solicitation No. FCGS-6-36381-N-9-24-80. Because LKB's offer was received on September 24, 1980, 2:45 p.m., 2 hours and 45 minutes after the cutoff date specified in the solicitation as 12 p.m., it was rejected as late and not considered for award.)

LKB protests that the cutoff time, expressed as "12 p.m." in the solicitation, is ambiguous and can be interpreted as either noon or midnight. Therefore, LKB contends that its proposal should not have been determined late since it was received on September 24, 1980. LKB also complains that it had to provide the Government with price plus discounts for a year far in advance of the contract's commencement.

Our Bid Protest Procedures require that protests based on alleged improprieties in a solicitation, which are apparent prior to the closing date for receipt of proposals, be received prior to that closing date. 4 C.F.R. § 20.2(b)(1) (1980). Further, where, as here, protests are filed with the agency and denied, any subsequent protest to our Office will be considered

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only if the protest to the agency was timely.  
4 C.F.R. § 20.2(a) (1980).

The bases for LKB's protest, that the cutoff time was ambiguous and that the contract commencement date required an undue pricing risk, were apparent on the face of the solicitation. Because LKB's initial protest, dated December 5, 1980, was filed with the GSA subsequent to the closing date, it is untimely. Therefore, its January 19, 1981, protest to our Office on these bases is also untimely and will not be considered on its merits. DBA Systems, Inc., B-199752, August 22, 1980, 80-2 CPD 144.

Protests other than those against alleged solicitation improprieties are required to be filed within 10 days of notification of the basis thereof. 4 C.F.R. § 20.2(b)(1) (1980). The protest against rejection of LKB's proposal is also untimely as LKB was notified of this basis of protest by letter dated October 8, 1980, and no protest was filed for almost 2 months thereafter. U.S. Eagle, Inc., B-200150, September 10, 1980, 80-2 CPD 109.

The protest is dismissed.

*Henry R. Van Cleave*  
For Milton J. Socolar  
General Counsel